

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Heidi Leuthner and Kyle Leuthner,

Case No. _____

Plaintiffs,

NOTICE OF REMOVAL

v.

Sam's Club, a division of Walmart Stores,
Inc., Sam's Real Estate Business Trust,
and Walmart Stores, Inc.,

Defendants.

Defendants Sam's Club, a division of Walmart Stores, Inc., Sam's Real Estate Business Trust, and Walmart Stores, Inc. (hereinafter collectively, "Walmart"), by and through its undersigned counsel, as and for its Notice of Removal of an action venued in the First Judicial District Court, Scott County, Minnesota to the United States District Court, District of Minnesota, states:

REMOVAL IS TIMELY

1. On July 1, 2022, through service of a Summons and Complaint, Plaintiffs Heidi Leuthner and Kyle Leuthner ("Plaintiffs") commenced an action against Walmart, in the First Judicial District Court, Scott County, Minnesota. A true and correct copy of the Summons and Complaint is attached as Exhibit 1.

2. This Notice of Removal is therefore timely pursuant to 28 U.S.C. § 1446(b) because it is filed within thirty (30) days of the date that Walmart was served with the Summons and Complaint.

REMOVAL IS PROPER BASED ON DIVERSITY JURISDICTION

The Amount in Controversy Exceeds \$75,000

3. In the Complaint, Plaintiff Heidi Leuthner alleges she has been “damaged and injured in an amount greater than \$50,000.00.” (Ex. 1, Compl., ¶ XI.)

4. Plaintiff alleges she has “sustained past and will in the future incur medical expenses for the treatment of her injuries; has in the past and will in the future incur a loss of earnings and earning capacity, and in the past and will in the future experience physical and mental pain.” (Ex. 1, Compl., ¶ XI.)

5. Upon information and belief, Plaintiff is claiming damages exceeding \$75,000.

The State Court Action Is Between Citizens of Different States

6. As alleged, Plaintiffs are Minnesota residents. (Ex. 1, Compl., ¶¶ 1, 2.)

7. Walmart is a Delaware corporation with its principal place of business located in Arkansas.

Diversity Jurisdiction Exists

8. As set forth in Paragraphs 6 and 7 above, this Court has diversity jurisdiction over Plaintiffs’ claims pursuant to 28 U.S.C. § 1332, and the action that Plaintiffs served in State Court is properly removable under 28 U.S.C. § 1441.

DEFENDANT HAS COMPLIED WITH THE REMOVAL PROCEDURES

9. As required by 28 U.S.C. § 1446(a), Walmart has attached as Exhibit 1 to this Notice of Removal a copy of all process, pleadings and orders served upon it relating to the State Court action.

10. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be served upon Plaintiffs, by and through their counsel of record, and with the Clerk of the First Judicial District Court, Scott County, Minnesota, the State Court under which Plaintiffs initially commenced an action against Walmart.

DEFENDANT PRESERVES ALL DEFENSES

11. The Answer of Walmart or other response to the Complaint was not due prior to filing this Notice of Removal. By filing this Notice of Removal, Walmart does not waive any defense or counterclaim that may be available to it including jurisdictional defenses. As required under Fed. R. Civ. P. 81(c)(2), Walmart will respond to the Complaint within the time set forth therein, unless an extension of the deadline is properly obtained pursuant this Court's approval.

WHEREFORE, Walmart respectfully removes the above-referenced cause of action from the First Judicial District Court, Scott County, Minnesota to the United States District Court of Minnesota, submits that no further proceedings be had in Minnesota State Court, and requests such other and further relief as is necessary and proper.

Dated: July 14, 2022

s/ Angela Beranek Brandt

Angela Beranek Brandt (#0293143)

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